

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

Richard Hinger

Chapter 7
18-53366-MBM
Judge McIvor

Debtor(s)

/

**MOTION FOR RELIEF FROM AUTOMATIC STAY & TO WAIVE THE
PROVISIONS OF F.R.B.P.4001(a)(3) AS TO JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION**

Now comes JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, Movant, through its authorized attorney, and respectfully represents to the Court as follows:

1. That Movant is the holder of a mortgage on that property known as 33720 Gertrude Street, Wayne, MI 48184;
2. That the Debtor filed the instant case on October 1, 2018;
3. That the case converted from a Chapter 13 to a Chapter 7 on February 28, 2019;
4. According to the Amended Schedule J filed on March 14, 2019, the Debtor intends to surrender the property located at 33720 Gertrude Street, Wayne, MI 48184;
5. That pursuant to 11 U.S.C. Section 362(d)(1), upon the request of a party in interest, the court shall grant relief from stay for cause, including lack of adequate protection of such party in interest. Cause may also include failure of the Debtor to comply with obligations under 11 U.S.C. Section 521(a)(2);

6. That the Debtor has failed to maintain payments pursuant to the terms of the note secured by the mortgage referred to in paragraph one (1) of this pleading;

7. That as a result of the default in payments, a material default has occurred, which is prejudicial to Movant's rights; Debtor is due for the December 1, 2017 mortgage payment, and subsequent mortgage installments;

8. That the total indebtedness due to Movant, not including attorney fees or costs associated with this Motion, is approximately \$49,258.21;

9. That the fair market value of the property is estimated to be \$95,000.00, as indicated by the Debtor's Schedule D; that additional lien(s) exist and are as follows: \$288.34 held by City of Wayne Water Department, that upon review of this matter, to the best of the Movant's knowledge and belief, there are no other lien holders with respect to the subject property;

10. That Movant is entitled to the relief sought based on the Debtor's intention to surrender the property and pursuant to Sections 361 and 362 11 U.S.C. – Bankruptcy;

11. Additionally, Creditor moves the Court for an Order terminating the pending automatic stay to allow Creditor to send to any party or parties protected by the automatic stay any and all notices required by applicable state and/or federal law or regulation. Creditor further moves the Court to terminate the automatic stay to allow Creditor to take such actions with respect to the Property as are provided for under applicable non-bankruptcy law, including but not limited to, informing Debtor(s) of any loan modification, short sale, or other loss mitigation options.

12. SCHNEIDERMAN & SHERMAN, P.C., contacted Debtor's counsel via e-mail to attempt to obtain concurrence to this Motion for Relief From Automatic Stay on April 1, 2019. Concurrence was not given.

Wherefore, Movant requests that it be granted immediate relief from the Automatic Stay as regards the aforementioned property; that Movant be permitted to enforce its contractual rights pursuant to state law; that F.R.B.P.4001 (a)(3), which provides that the Automatic Stay shall remain in effect for a period of fourteen days from date of an Order Granting a Motion for Relief from Stay, be waived.

SCHNEIDERMAN & SHERMAN, P.C.

Date: 04/16/2019

By: /s/ Kristy Steffani
Kristy Steffani (P77020)
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**ORDER GRANTING RELIEF FROM AUTOMATIC STAY & WAIVING THE
PROVISIONS OF F.R.B.P.4001(a)(3) AS TO JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION**

This matter having come before this Court on the Motion of JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (“Creditor”), by and through its attorneys, Schneiderman & Sherman, P.C., for relief from the Automatic Stay; all parties to said Motion having been served with a copy of Creditor’s Motion and proposed Order:

IT IS HEREBY ORDERED that the Automatic Stay is terminated to allow Creditor, its successors or assigns to foreclose on the property known as 33720 Gertrude St., Wayne, MI 48184, for the reasons set forth in Creditor’s Motion; that Creditor is permitted to dispose of the property in accordance with the terms of its note and security agreement and in accordance with federal and state law; that F.R.B.P.4001(a)(3), is waived; that this order shall be served on the Chapter 7 Trustee and all others with an interest in the subject property. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

IT IS FURTHER ORDERED that Creditor may send to any party or parties protected by the automatic stay any and all notices required by applicable state and/or federal law or regulation and to take such actions with respect to the Property as are provided for under applicable no bankruptcy law, including but not limited to, informing Debtor(s) of any loan modification, short sale, or other loss mitigation options.

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PROOF OF SERVICE

I hereby certify that on the 16th day of April, 2019, I electronically filed the foregoing Motion for Relief from Stay, Notice of Motion, and Proposed Order with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Kenneth Nathan
32300 Northwestern Hwy.
Suite 200
Farmington Hills, MI 48334

William C. Babut
700 Towner Street
Ypsilanti, MI 48198

And I hereby certify that I have mailed by United States Postal Service the Motion for Relief from Stay, Notice of Motion, and Proposed Order to the following non-ECF participants:

WAYNE COUNTY TREASURER
400 Monroe
Fifth Floor
Detroit, MI 48226

Richard Hinger
33720 Gertrude Street
Wayne, MI 48184

Paul Randel
United States Trustee
211 West Fort Street Suite 700
Detroit, MI 48226

City of Wayne Water Department
3355 South Wayne Road
Wayne, MI 48184

By: /s/ Kristy Steffani
Kristy Steffani (P77020)
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